

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) Case No: 20-MJ-1094-MDM
)
KEVIN DION ROLLE, JR.,)
)
Defendant.)

TRANSCRIPT OF INITIAL APPEARANCE HEARING
HELD BEFORE
THE HONORABLE MAGISTRATE JUDGE MARSHAL D. MORGAN
Friday, October 30, 2020

A P P E A R A N C E S

For the Plaintiff:

MARIA MONTANEZ, AUSA

For the Defendant:

JESUS HERNANDEZ, AFPD

1 (PROCEEDINGS COMMENCED AT 3:34 P.M.)

2
3 DEPUTY CLERK: Magistrate Case 20-1094, United
4 States of America versus Kevin Dion Rolle, Junior. Case
5 called for initial appearance. On behalf of the United
6 States, AUSA Maria Montanez. On behalf of the defendant,
7 AAFP Jesus Hernandez. Also present, Probation Officers
8 Damary Flores and Alisa Abruna. The defendant does not
9 require the services of the certified interpreter. All
10 parties are present via VTC.

11 THE COURT: All right. Good afternoon, everybody.

12 MS. MONTANEZ: Good afternoon, Your Honor.

13 THE COURT: Okay. Maria, Ms. Montanez, the
14 Government is ready to proceed, right?

15 MS. MONTANEZ: Yes, Your Honor, we are.

16 THE COURT: Mr. Hernandez, Defense ready to
17 proceed?

18 MR. HERNANDEZ: Yes, Your Honor.

19 THE COURT: All right. So good afternoon,
20 everybody. In addition to those individuals that the
21 courtroom deputy mentioned who are appearing by way of video
22 conference, we also have the court reporter appearing by
23 video conference, and the Court is audio recording these
24 proceedings.

25 The Court noticed this hearing as a video

1 conference hearing under the authority granted by the
2 Court's March 31, 2020 administrative order as amended in
3 Miscellaneous Case Number 20-88.

4 Mr. Hernandez, did you have an opportunity to
5 discuss with Mr. Rolle -- is that how you pronounce it,
6 Rolle -- about his right to be physically present for this
7 hearing?

8 MR. HERNANDEZ: Yes, Your Honor.

9 THE COURT: Okay. Mr. Rolle, as you know,
10 Coronavirus and COVID-19 has made it unsafe for us to bring
11 people to the courtroom for these hearings. As a result,
12 the Court has authorized us to proceed with this hearing by
13 way of video conference, but to do so we would also need
14 your consent. Your consent is not required, however. You
15 can insist that we bring you physically to the courtroom to
16 hold this hearing. However, what I would do is postpone the
17 hearing today and reschedule it for some future date when it
18 is safe to bring you to the courtroom. As you can imagine,
19 it could be weeks or months in the future. As a result, the
20 only way to timely proceed with this hearing is to conduct
21 it via video teleconference.

22 Please understand that you will not lose your
23 ability to speak with your attorney at any point during the
24 hearing. Let me know, and I will pause the hearing and
25 Mr. Hernandez can call you on the phone and you can speak

1 with him.

2 Having heard that, do you consent to proceed with
3 this hearing by way of video conference?

4 THE DEFENDANT: Yes, Your Honor. I am actually in
5 a wheelchair, so it would be actually convenient for me to
6 have the hearing by video conference.

7 THE COURT: Okay. Terrific. And I understand
8 that English is your first language, so you don't need an
9 interpreter. Right?

10 THE DEFENDANT: Correct, Your Honor.

11 THE COURT: Okay. Very good then. I find that
12 the defendant, after conferring with Counsel, has knowingly
13 and voluntarily consented to proceed by way of video
14 conference with this initial appearance and has, therefore,
15 waived his right to appear in person for the hearing.

16 So Mr. Rolle, you are before me because a criminal
17 complaint has been filed against you in the Southern
18 District of New York charging you with several violations of
19 federal law. More specifically, Count One of the complaint
20 in the County of Manhattan charges you with conspiracy to
21 commit wire fraud.

22 Let me just ask Mr. Hernandez. Have you had an
23 opportunity to go through the specific allegations with him?

24 MR. HERNANDEZ: Yes, I did, Your Honor.

25 THE COURT: Okay. So I don't need to go over the

1 specific allegations with him, but I will go over with him
2 the maximum penalties. Thank you.

3 So Mr. Rolle, the first count charges you with
4 conspiracy to commit wire fraud in violation of Title 18
5 United States Code Section 1349. If you are convicted of
6 that offense, you would face a maximum term of
7 incarceration -- a maximum possible term of incarceration of
8 not more than 20 years, a fine of not more than \$250,000,
9 and a supervised release term of not more than three years.

10 Now, I see you roll your eyes in surprise. Please
11 understand that these are the maximum penalties provided by
12 law. It does not necessarily equate with what you would be
13 sentenced to if you were convicted of this offense, okay.
14 So don't be terribly alarmed by it. This is just the
15 maximum penalty by law, okay.

16 Count Two charges you with wire fraud, and it
17 provides statutorily with the same maximum penalty; no more
18 than 20 years, a fine of not more than \$250,000, and a
19 supervised release term of not more than three years.

20 Now, Count Three charges you with aggravated
21 identity theft, which is in violation of Title 18 United
22 States Code Sections 1028A(a)(1), (b), and separately
23 18 U.S.C. Section 2, which is aiding and abetting. If you
24 are convicted of this offense, the law provides for a fixed
25 sentence of two years imprisonment -- and the important

1 thing about the two years is that it must be consecutive to
2 any other term of incarceration for which you are
3 sentenced -- a maximum penalty of \$250,000, and a supervised
4 release term of not more than one year per count of 1028A.

5 Count Four charges you with forgery or false use
6 of a passport in violation of Title 18 United States Code
7 Sections 1543 and Section 2. It provides you with a maximum
8 possible term of incarceration of not more than ten years, a
9 fine of not more than \$250,000, and a supervised release
10 term of not more than three years. The complaint is rather
11 extensive, and that's it. I don't see any forfeiture
12 allegation or anything else in the complaint.

13 Now, I understand you are not a U.S. citizen. I
14 don't want you to answer that question at all. I just
15 understand that you are not. Therefore, let me tell you, I
16 understand you are a citizen of the Bahamas. So if you
17 would like for me to order the agents to notify the consular
18 office of the Bahamas, I can do so, if you want. Consular
19 notification might help you communicate with your family
20 that you are detained. It might assist you in obtaining
21 representation, and there might be some other benefits of
22 consular notification. If you tell me no today, fine;
23 tomorrow you can change your mind and we can make the
24 consular notification. But it's up to you. If you would
25 like for me to do that, I will order the agents -- I will

1 order the Assistant United States Attorney to contact the
2 agents to have the notification done.

3 Would you like for me to have them notify the
4 Bahamian consular office?

5 THE DEFENDANT: No, thank you, Your Honor. I have
6 very little ties to the Bahamas. New York is where I am
7 based out of now; so is my family. So that's not necessary.

8 THE COURT: Okay. Very well. Let me advise you
9 that you have the right to retain counsel of your own
10 choosing, and if you cannot afford an attorney, one will be
11 appointed for you at no charge to you.

12 Now, I understand in my discussions with the
13 probation officer that you do not have the financial
14 resources necessary to hire the services of your own
15 attorney and, therefore, the Court will appoint CJA counsel
16 to represent you in this case.

17 Counsel Hernandez, I am going to appoint CJA
18 counsel only to lighten the load from the FPD since the FPD
19 has been appointed every case so far.

20 Mr. Rolle, CJA counsel is simply a court-appointed
21 attorney who will represent you in this case.

22 You have the right to remain silent. Anything
23 that you say during this virtual -- in this virtual
24 courtroom or outside of this virtual courtroom can be used
25 against you. You also have the right to a jury trial

1 presided over by a district judge.

2 Now, because you were charged by way of a criminal
3 complaint in the Southern District of New York, you have the
4 right to a preliminary hearing. A preliminary hearing --
5 I'm sorry, strike that.

6 Because you were charged by way of a criminal
7 complaint, the U.S. Attorney's Office has 30 days from the
8 date of your arrest to present this case to the grand jury.
9 If the grand jury finds that there is probable cause that
10 you have committed a crime, it will return what is called an
11 indictment. An indictment is a finding of probable cause.

12 Separate from the grand jury, you also are
13 entitled to a preliminary hearing. A preliminary hearing is
14 so that the Court, namely me, or the magistrate judge in
15 New York can make a determination as to whether there is
16 probable cause for your arrest. During the preliminary
17 hearing, the Government will be called upon to present
18 witnesses in an effort to prove to the Court or convince the
19 Court that there is probable cause that you violated the
20 law. During that preliminary hearing, the Government will
21 be called upon to present witnesses, and you can
22 cross-examine those witnesses or present witnesses of your
23 own in an effort to attack probable cause.

24 Now, if the grand jury returns an indictment prior
25 to the scheduled date for your preliminary hearing, well,

1 then you will no longer need the preliminary hearing because
2 the return of the indictment is the finding of probable
3 cause, in which case your preliminary hearing will be
4 converted to what's called an arraignment. An arraignment
5 is simply the formal reading of the charges returned by the
6 grand jury.

7 Now, in this case -- you are from New York. The
8 30 days that I mentioned to you will not necessarily count
9 until you reach or return back to the Southern District of
10 New York. So don't start counting the 30 days necessarily
11 from the day of your arrest.

12 The next hearing for you in this case will be
13 what's known as an identity, removal and potentially a bail
14 hearing. The identity, removal and bail hearing will be
15 scheduled or is scheduled for what day, Lotty, considering
16 it is now a ten-dayer?

17 DEPUTY CLERK: November 12th at 3:00 p.m.

18 THE COURT: All right. What I would like to do
19 now before I adjourn this is I want to have a sidebar with
20 the attorneys and the court reporter. So let me -- Lotty,
21 do me a favor and create a breakout room.

22 Mr. Rolle, I am going to have a conference with
23 the attorneys now, so you are going to see us disappear
24 because I am going to move us to a breakout room. You just
25 sit tight there and wait for us to come back. It's the

1 equivalent of us having a conference at the bench, out of
2 the ears of the public, okay. So sit tight, and we will be
3 right back with you.

4 DEPUTY CLERK: Judge, it will be you, the
5 attorneys, and Lisa?

6 THE COURT: Everybody with the exception of
7 Mr. Rolle.

8 DEPUTY CLERK: Can I just put Mr. Rolle in the
9 waiting room so that he won't listen to what everybody is
10 talking about here?

11 THE COURT: If that's easier, let's do it that
12 way.

13 DEPUTY CLERK: Okay. Give me a second.

14 THE COURT: Mr. Rolle, we are going to put you in
15 the waiting room. Just sit tight, okay.

16 (WHEREUPON, the Defendant left the proceedings.)

17 THE COURT: So for purposes of the record,
18 Mr. Rolle has been placed into the waiting room, and we now
19 have the court reporter, and Mr. Hernandez, counsel for
20 Mr. Rolle, Ms. Montanez, counsel for the Government,
21 Ms. Abruna and Ms. Flores, both from Probation, and Lotty,
22 the courtroom deputy.

23 All right. Earlier I had mentioned to both the
24 Government and the Defense in a recess from another hearing
25 that Probation was potentially recommending conditions of

1 release. Since I mentioned that, and since my meeting with
2 Probation, Probation has uncovered some additional
3 information that goes directly to the question of
4 substantial risk of flight. But the circumstances, the
5 medical situation that Mr. Rolle finds him in puts the Court
6 in a quandary as to how we should proceed with the question
7 of bail.

8 What I want to have happen now is, Ms. Abruna,
9 probation officer, explain to both parties and give, in
10 effect, an oral report, an oral Pretrial Services Report, so
11 that we can together, among all of us, decide how to proceed
12 in this case.

13 PROBATION OFFICER ABRUNA: Yes, Your Honor.

14 THE COURT: I haven't had a hearing yet, a bail
15 hearing but, in effect, it turns out -- and I don't want to
16 take any wind out of Ms. Abruna's sail. It turns out that
17 he is not a three-day defendant but, rather, a ten-dayer.
18 But having said that, I will let her explain the
19 circumstances. Go ahead.

20 PROBATION OFFICER ABRUNA: Yes, Your Honor. Thank
21 you. Well, the original interview was performed by
22 Probation Officer Damary Flores. She is here, and if she
23 needs to interrupt me or add on to the information, that
24 would be completely acceptable since she was the one to
25 receive the initial information from the defendant.

1 She portrayed to me or conveyed that the defendant
2 is a resident of New York. She reported to me that the
3 defendant is a single father of four children, that his
4 children currently reside with his own mother in New York
5 because the defendant became a widow recently. I believe it
6 was in January. And --

7 THE COURT: Let me clarify one point. Damary, I
8 think that he lives with his mother here, and she just
9 recently, in the past days since his arrest, went back to
10 New York -- that doesn't make any sense -- went back to
11 New York to take care of his children. That doesn't make
12 any sense.

13 PROBATION OFFICER FLORES: Well, Your Honor, what
14 she told me was that after she heard about the arrest, she
15 flew back to New York to take care of the grandchildren but,
16 actually, that she is now living between the Bahamas and
17 New York because of the physical conditions of her son and
18 because she is helping him taking care of the children.

19 THE COURT: Okay. So she went back to New York to
20 take care of the grandchildren. But with whom do his four
21 children live? He has triplets, who are four years old, and
22 a three-year-old. With whom did they live prior to his
23 arrest?

24 PROBATION OFFICER FLORES: Well, Your Honor, he
25 was married to -- apparently, married to Elena Cavendish,

1 age 27, a Canadian resident residing in New York. They were
2 together for almost two years, and she died in a car
3 accident recently.

4 THE COURT: Oh, recently; not January?

5 PROBATION OFFICER FLORES: January. Yes.

6 THE COURT: Okay. January. So did he live in
7 New York with her and the children?

8 PROBATION OFFICER FLORES: Yes.

9 THE COURT: When did he come to Puerto Rico?

10 PROBATION OFFICER FLORES: Actually, he
11 doesn't -- he just told me that he was in the airport, and
12 he was waiting to board the other flight. Maybe -- what I
13 understood is he was in a connecting flight here in Puerto
14 Rico, but never mentioned what he was doing here other than
15 being at the airport.

16 THE COURT: I see. I see. Okay. He is charged
17 in the complaint in New York because that's where he was
18 residing until his arrest here. So he's got no contacts
19 with Puerto Rico. But his mother, where is his mother from
20 and live? I know she is from the Bahamas, but does she live
21 here?

22 PROBATION OFFICER FLORES: No.

23 PROBATION OFFICER ABRUNA: No, Your Honor. U.S.
24 Probation Officer Alisa Abruna, for the record. His mother
25 is in New York with his children. We believe that she

1 resides both in the Bahamas and stays with him in New York
2 on and off, but she claims to be a citizen of the United
3 States. That information could not be verified as to her
4 own citizenship because when we contacted her for purposes
5 of verifying her information in further consideration of
6 possible third-party custodian, her response was that her
7 son is an adult and he can provide us her information.

8 I attempted to verify further information
9 regarding the defendant's citizenship because she had
10 portrayed to Officer Flores that her son was a citizen, and
11 so since this detail -- I tried to contact the immigration
12 authorities with no luck. So I contacted her and asked her
13 if she had any documents or any documented basis to
14 establish his citizenship, to which she replied that she
15 doesn't know everything that her son does, but that all she
16 knows is that he had some papers that he had submitted for
17 citizenship, implying an application, and that he was
18 waiting for a second set of papers, and that that was
19 pending completion, but that the defendant had permission to
20 be in the United States until 2021.

21 I asked her if she knew what a visa document is,
22 and she said, Yes, of course, I do. So I asked her if she
23 believes that what he has is a visa to be in the United
24 States until 2021, to which she replied that, well, it could
25 be understood that it is a visa, but she doesn't know all

1 the details as to her son's papers or doings, along that
2 line.

3 So she inquired this officer if we could just
4 simply let her know what were the charges against her son
5 and -- because she didn't understand why she had to provide
6 information of him or herself to us, meaning the Probation
7 Office. And I told her the purpose of our investigation.
8 And the conversation just ended there. Nothing further was
9 discussed; not on my behalf. I don't know if Officer Flores
10 has any further information.

11 THE COURT: Okay, listen. Now, I don't want this
12 to be the detention hearing. I just want this to be the
13 equivalent of the parties reviewing the paper. So let me
14 run through what Damary told me about his medical condition,
15 and then I want to go back on the record with the defendant
16 where we can then discuss any issue that you want to
17 discuss. Maria, on behalf of the United States, you can
18 then raise any argument in favor of detention or, if you
19 find it reasonable, some conditions. Mr. Hernandez can do
20 the same.

21 You know, I am trying to duplicate a scenario
22 where the parties are simply reviewing the paper outside of
23 the presence of the defendant. I didn't want to bring him
24 into this sidebar because I didn't want him to feel the
25 temptation of explaining things or justifying anything or,

1 basically, putting his foot in his mouth unintentionally.

2 So I am going to go through the medical
3 conditions. Damary can correct me if I am wrong; she can
4 add to it. And then we will go back and be with the
5 defendant. And Mr. Hernandez, if you feel it necessary or
6 appropriate to speak with him, let him know what was said
7 over here, we can do that as well.

8 Goodness, it's 4:00, Lotty. I feel terrible for
9 Feldstein. Can you contact Feldstein?

10 DEPUTY CLERK: I texted him just to make sure that
11 he knows that we haven't finished, that we went to sidebar,
12 but he knows.

13 THE COURT: All right. Apologize to him for me.
14 I didn't mean for this to extend so long. Let's see if we
15 can't get through this, Guys.

16 All right. He has [REDACTED]. I don't know,
17 Damary, what the [REDACTED] is of. Do you?

18 PROBATION OFFICER FLORES: Your Honor, he just
19 told me that he has [REDACTED] in his abdominal area, in the
20 stomach.

21 THE COURT: In his abdominal area. He suffers
22 from [REDACTED]. He is [REDACTED]. I think he suffers
23 from a [REDACTED]. Currently the meals at MDC are making him sick
24 because of his health conditions. I think he is also now
25 going through [REDACTED]. He suffers from [REDACTED]. He

1 takes nine pills a day.

2 He is a legal permanent resident of the United
3 States, but he is a citizen of the Bahamas. He works for
4 the Government of the Bahamas at a college that has a campus
5 in Miami and in the Bahamas.

6 PROBATION OFFICER FLORES: Excuse me, Your Honor.
7 When I asked him about his legal status, he just told me
8 that he was a U.S. citizen, not --

9 THE COURT: That's where the quandary comes in,
10 because he represented that he was a U.S. citizen, and when
11 Probation attempted to confirm that, they were unable to
12 confirm it definitively. And, actually, the mother was
13 reticent to give up information, but the information that
14 she did give up led us to believe that he might be here on a
15 visa alone.

16 He has a delicate mental state. He has been a
17 psychiatric patient since the age of 14. He was
18 hospitalized in 2018 due to, apparently, some sort of a
19 breakdown. He currently takes [REDACTED], and he works
20 from home since his [REDACTED] diagnosis in January of 2020.
21 And what I was saying before is that he works for a college
22 that has a campus in both Miami and the Bahamas. All right.
23 So that's the extent of what Probation has been able to
24 uncover so far.

25 Lotty, can we proceed still with this even though

1 it's after 4:00?

2 DEPUTY CLERK: I will call Feldstein.

3 THE COURT: All right. Please do that.

4 Mr. Hernandez, would you like to speak to him?

5 MR. HERNANDEZ: Yes, briefly. If you could give
6 me a breakout room, that would be great.

7 MS. MONTANEZ: I apologize, Your Honor. I didn't
8 understand Counsel Hernandez. Are we moving from the break
9 room or still in the break room?

10 THE COURT: We are in the breakout room. Lotty is
11 finding out from Mr. Feldstein if we can proceed because,
12 technically, 4:00 o'clock is the count, and we shouldn't
13 have hearings beyond 4:00, but that's my fault. I didn't
14 catch it. It's already 4:00 o'clock. I don't know what the
15 Government's position is ultimately going to be with respect
16 to everything that we talked about, but I think it's
17 something that we need to discuss with the defendant
18 present. So Lotty.

19 DEPUTY CLERK: Feldstein did not answer, Judge.

20 THE COURT: We have to continue in any event. So
21 let's bring Mr. Rolle back and have Mr. Hernandez contact
22 him. And I don't know how.

23 (WHEREUPON, the Defendant entered the
24 proceedings.)

25 THE COURT: Mr. Rolle, how are you?

1 Okay. Is Mr. Feldstein around? No, he is not?

2 You know what, we can do it this way. We don't
3 need a telephone. Let's put Mr. Hernandez and Mr. Rolle in
4 a breakout room. We don't need an interpreter. He doesn't
5 need to call on the phone.

6 Okay. Mr. Rolle, I am going to have your
7 attorney, Mr. Hernandez, talk with you in a breakout room,
8 all right. So you are going to leave us virtually and enter
9 a room with Mr. Hernandez. However, on the screen, it is
10 going to invite you to go to the breakout room. You are
11 going to have to accept the invitation to go to the
12 breakout room. Right, you can't touch the screen. He did
13 tell you -- I heard him -- not to touch it.

14 Mr. Feldstein, hello. I need to send Mr. Rolle to
15 a breakout room. Okay.

16 (WHEREUPON, there was a conference between the
17 Defendant and Counsel.)

18 MR. HERNANDEZ: We are ready to proceed, Your
19 Honor.

20 THE COURT: We are back on the record. Mr. Rolle
21 has rejoined us, as has Mr. Hernandez, where they were -- we
22 were in a brief recess while they spoke privately.

23 Let me ask the Government what its position is
24 with respect to bail.

25 MS. MONTANEZ: Your Honor, we are requesting the

1 detention of the defendant. We were actually going to
2 request the three days, but if the Court is inclined to move
3 with the hearing today, we are prepared to move forward with
4 our arguments as well. Do you want me to do that now?

5 THE COURT: Yeah, I would.

6 MS. MONTANEZ: That's okay. We are prepared, Your
7 Honor.

8 First of all, as per the information the
9 Government has, the defendant is not a United States citizen
10 and he is not a legal permanent resident either. The
11 information the Government has is that his mother is not a
12 U.S. citizen either. She is a citizen of the Bahamas. We
13 do not have any information regarding the children he is
14 claiming to have, but we do have information that the
15 defendant has a pattern of traveling constantly to multiple
16 jurisdictions, including international jurisdictions.

17 To summarize -- and I am going to go into detail,
18 but to summarize all this information, we are skeptical of
19 the information the defendant has provided absent any other
20 documentation in support of it, honestly, including some of
21 the medical conditions he has claimed he has or at least he
22 alleged he had to the probation officer.

23 For example, the probation officer is informing he
24 takes nine pills a day. Some medications were seized from
25 the defendant at the time he was arrested; two pills -- two

1 pill bottles. And those, it seems, based on the internet,
2 that they are for [REDACTED] So we might agree that
3 those might go to the [REDACTED] But we have no
4 information regarding any treatment for [REDACTED] by the
5 defendant. To the contrary, what we have is the defendant
6 flying around internationally for a long period of time.

7 This case is based on a fraud scheme that began on
8 or around 2015. The defendant during this time has been
9 submitting false information to officials. He has been
10 submitting false information to financial institutions, and
11 he has gained access to false documents, more than six or
12 seven identity documents and personal identifying
13 information this defendant has gathered in order to present
14 those documents to officials in the financial institution
15 and then access credit cards which he has used for expensive
16 buys. The loss right now, it's more than \$1 million.

17 Among the type of documentation, the defendant has
18 had access to Ecuadorian passports, false Pennsylvania
19 drivers license, a British passport. Not only he acquires
20 the false documentation; he also uses additional aliases.
21 We have at least one, two, three, four, five aliases the
22 defendant has been using to conduct these buys or to obtain
23 these documents. We have Ecuadorian passports, British
24 passports. There is a link in terms of the purchase history
25 from this defendant to a German name of Christian Alexander

1 Hill. There is also a link to Dario Pelaez with Spanish
2 identity documents. Those were used to gather additional
3 credit cards; as well as French identity documents, Your
4 Honor.

5 Besides that, the defendant recently returned to
6 the United States after several weeks traveling abroad, and
7 he traveled to multiple European cities, including Madrid,
8 London, Vienna, Budapest, Turkey, and Poland. And that was
9 all before arriving to the United States and in Puerto Rico.
10 And it is also important to say that he was boarding a plane
11 to go to Miami at the time of his arrest on Wednesday.

12 We are unaware of any family ties the defendant
13 might have had in the United States. We are definitely
14 concerned that if this defendant is released, he will flee
15 immediately to the Bahamas. There is no doubt he has access
16 to -- in terms of money, to escape. He also has access to
17 these personal identifying information, to the passports.
18 We don't know why he was in possession of a British
19 passport, but the fact is that he has.

20 Besides that, this investigation has revealed
21 searches in terms of the search database this defendant has
22 been engaging to, and that revealed that the defendant has
23 searched on the internet for different topics; among them,
24 how to get passports from other countries, how to get birth
25 certificates from other countries and drivers licenses,

1 how-to videos for purchasing and making false identification
2 documents.

3 We are skeptical of the information this defendant
4 is providing to the probation officer's report. We submit,
5 respectfully, that the fact that the mother is also
6 providing information that is not consistent with the
7 information that she reveals later on, even in the same
8 interview with the probation officer -- she claimed to the
9 probation officer one thing at the beginning and then later
10 on she kind of retracted. We understand that that also
11 indicates that the information submitted by the defendant is
12 not accurate, to say the least.

13 Even if the medical conditions the defendant says
14 he has are true, those medical conditions at no point have
15 stopped the defendant from traveling extensively outside of
16 the United States. Defendant claims that he is working from
17 home, notwithstanding that he's been traveling
18 internationally extensively and outside of the United
19 States, which is a significant risk of flight factor. And
20 at this time, Your Honor, we are seriously concerned with
21 the risk of flight the defendant possesses, the fact that he
22 has access to this information, he has access to these
23 documents, and he has access to money based on the kinds of
24 expenses this defendant has made with those credit cards.
25 From on or about September 7, 2020 to on or about

1 October 2020, meaning that was recent, is when the defendant
2 has been traveling through Europe. Therefore, he has an
3 ability to go physically and financially flee the
4 jurisdiction. This is also in accordance with the travel
5 patterns that he has had since 2015 and with the access to
6 personal identifying information that he has, Your Honor.
7 Therefore, we are requesting detention.

8 THE COURT: Thank you. Mr. Hernandez.

9 MR. HERNANDEZ: Your Honor, I mean --

10 THE COURT: I sort of forced this issue based on
11 information that we received from the Probation Office, some
12 very compelling information that goes to the heart of risk
13 of flight. You can request a continuance to find out more
14 information, but now could be the time to proceed, I think.
15 Go ahead.

16 MR. HERNANDEZ: Your Honor, none of what the
17 Government said makes him a risk of flight, Your Honor. We
18 don't know why -- it is not illegal to travel, and we don't
19 know why Mr. Rolle was traveling. Maybe he is traveling
20 because it's on his bucket list because he has [REDACTED], and
21 he is realizing his days are limited. That should not be a
22 reason to deny him bail.

23 In terms of the real risk of flight, there are
24 mechanisms to impede him from traveling outside of the
25 United States; taking away his passport, putting an ankle

1 bracelet, home arrest, third-party custodian. The fact that
2 he travels without any evidence of why he is traveling, from
3 the Government, is just -- isn't enough to deny bail.

4 In terms of his medical conditions, Your Honor, I
5 mean, the Government hasn't presented any evidence that he
6 doesn't have these conditions, Your Honor. We see that he
7 is in a wheelchair. You know, we know he's taking pills.
8 The Government concedes that point. He is taking pills
9 because of some condition he has. He does have a [REDACTED]

10 [REDACTED] The Government said nothing about his
11 [REDACTED] conditions and the other pills he is taking,
12 Your Honor.

13 So we can't dismiss -- we can't accept the
14 Government's dismissal of his medical conditions just
15 because he hasn't presented any evidence, Your Honor. We
16 should take it at face value at this stage at least, Your
17 Honor. It doesn't seem he is a risk of flight, and it seems
18 that what he is saying about his health has some credence to
19 it.

20 So when we look at the reasons for bail, Your
21 Honor, is he a risk of flight? Is he a danger to the
22 community?

23 THE COURT: No, we are not disagreeing.

24 MR. HERNANDEZ: He is not a danger.

25 THE COURT: That's not available for argument

1 here. It's only risk of flight.

2 MR. HERNANDEZ: The risk of flight, Your Honor,
3 there are conditions that will satisfy the Government's
4 worries. If he has multiple passports, take them away. If
5 he has a Bahamian passport, and that's the only one he has,
6 take that away. Home incarceration at his home in New York
7 with electronic monitoring, Your Honor. He told me he lives
8 in Midtown. He lives in a high-rise. Going up and down the
9 stairs would be difficult. He is in a wheelchair. He needs
10 the wheelchair for mobility. The reason he is in a
11 wheelchair is because of his [REDACTED] condition. It's
12 difficult for him to walk.

13 If he attempts to move, to go to the airport, he
14 will be noticed because of his condition, because of the
15 wheelchair, Your Honor. So I think the risk of flight
16 argument isn't enough from the Government, Your Honor. I
17 think there are conditions right now to at least let him be
18 released under certain conditions. He informed me that if
19 he is released and allowed to go to New York, he does have
20 the means to come back for the Rule 5 hearing, or the means
21 for an electronic monitoring system at his home.

22 THE COURT: Okay. Well, that wouldn't make very
23 much sense for him to be released here, go to New York, come
24 back to the Rule 5 hearing to decide whether we send him
25 back to New York. I mean, if he were to go to New York, he

1 would stay in New York because that's where the charge is.

2 Frankly, Ms. Montanez, I don't think I need to
3 hear much more. What I have heard so far, what I have seen
4 is -- I can dare say I can find a more obvious case of
5 substantial risk of flight than the circumstances that I
6 have seen right here.

7 MS. MONTANEZ: Your Honor, if I may. I just
8 received additional information that I think is important
9 for the Court to know.

10 THE COURT: Be my guest.

11 MS. MONTANEZ: I just received confirmation from
12 the immigration service that the defendant filed a green
13 card application, and that application asks that he list any
14 children he might have around the world, and he did not list
15 any children. So our position in this case is not only that
16 he is a risk of flight based on his access, but that he has
17 a pattern of providing false information to officials, and
18 that is why we cannot rely on the information he is
19 providing now to the probation officer or to the Court in
20 order to determine that he is not a risk of flight because
21 this is exactly what he's been doing since 2015.

22 And he claims now that he was in a wheelchair, but
23 on September 7, 2019, as per the complaint filed in the
24 case, there is a video recording of a person that appears to
25 be Rolle exiting from the Best Buy. And the reason that

1 information is included in the complaint is because one of
2 the credit cards associated to this whole pattern made
3 purchases at that establishment.

4 So he might be in a wheelchair today, but we are
5 really concerned that he might not be providing concrete,
6 correct information that this Court can honestly rely on to
7 believe that he is not going to disappear as soon as he has
8 access to a plane and abandon the United States, Your Honor.

9 THE COURT: Okay. Mr. Rolle, I don't want to hear
10 from you personally, but if you would like to speak with
11 Mr. Hernandez, he can call you -- well, we can put you back
12 into the breakout room so you can speak with him, all right.
13 Would you like to do that?

14 All right. Go ahead, Lotty; put them in a
15 breakout room, please.

16 (WHEREUPON, there was a conference between the
17 Defendant and Counsel.)

18 MS. MONTANEZ: Your Honor, I apologize, but it
19 seems there is another lie the defendant has provided to the
20 Court, or to the Government. I just received information
21 that at the time of his arrest, the defendant said that his
22 alleged kids that he had not mentioned in any green card
23 application were in Miami. So the kids are in Miami or the
24 kids are in New York. The mom says he is a legal permanent
25 resident, which he is not.

1 There is no other way to put this than this
2 defendant has been providing false information to the Court
3 in an attempt to move the Court to release him, and those
4 factors go precisely to the fact that he is a risk of
5 flight; that there are no conditions that the Court can
6 impose that he will abide by, and that if he gets a -- for
7 example, an electronic monitoring device, he will cut it and
8 flee the jurisdiction.

9 THE COURT: Okay.

10 MR. HERNANDEZ: Your Honor, just for the record,
11 much of the information the Government has said, if not all,
12 is in the complaint. It's what they have that we don't have
13 access to yet which my client says much of it is inaccurate
14 or incorrect. This information that keeps coming in, I
15 would like disclosure of those messages she's been receiving
16 regarding these issues because it keeps rolling in
17 conveniently, you know, during the hearing, and I would like
18 access to that information, Your Honor.

19 THE COURT: I can't say that I can give you access
20 to that. I mean, that could be communications between
21 attorneys. So, I mean, your request for that is denied.

22 MR. HERNANDEZ: If it's evidence they are using
23 against my client, Your Honor, we have a right --

24 THE COURT: It's not. Those communications are
25 not evidence. Those are communications between attorneys.

1 It's work product. And what Ms. Montanez decides to
2 represent to the Court is what is public. But wherever that
3 comes from is not necessarily evidence.

4 MS. MONTANEZ: To clarify, Your Honor, I have been
5 in communication with the Assistant United States Attorneys
6 in the Southern District of New York.

7 THE COURT: I suspected that is the case.

8 But Mr. Hernandez, after having spoken with
9 Mr. Rolle, is there anything additional you want to say
10 before I issue my ruling?

11 MR. HERNANDEZ: Your Honor, we just want to
12 reemphasize, Your Honor, that there are conditions of
13 release.

14 THE COURT: Other than what you said. If you just
15 want to reemphasize what you have already argued, I have
16 what you argued.

17 MR. HERNANDEZ: So basically, Your Honor, this is
18 a person who can be released under conditions; 24-hour
19 electronic monitoring in his home. That should satisfy any
20 risk of flight.

21 THE COURT: Okay. Well, let me just state for the
22 record that I am seeing Mr. Rolle on the screen, and he has,
23 perhaps, one of the most pleasant demeanors I have seen of
24 anybody who's come before me, and I have a feeling that if
25 he wanted to convince somebody of something that perhaps

1 wasn't true, he might easily be able to do that.

2 And Mr. Rolle, I am saying this as a compliment to
3 you. You have a very nice demeanor, and your responses to
4 me were very good. However, unfortunately, as I said
5 before, based on the proffer of the Government, I can dare
6 say that I have seen a more perfect case that demonstrates
7 substantial risk of flight than this one.

8 Mr. Hernandez, you said that -- you suggested that
9 the Court simply take away his passports, and if he's got a
10 passport from Great Britain, he's got a passport from
11 Ecuador or he's got a passport from -- a British passport,
12 just take those away, but the mere fact that he has those
13 documents is evidence of substantial risk of flight.

14 I can't just rest assured that we have taken away
15 all of his five illegal and fraudulent passports for
16 different countries because I don't know whether he's going
17 to have one in his back pocket. And the reason that I can't
18 trust that he doesn't have one in his back pocket is
19 precisely because the information that he has provided
20 already to the probation office has been filled with nothing
21 but holes. He represented to them that he was a U.S.
22 citizen. He is not. He is not even a lawful permanent
23 resident.

24 And it's not that the United States is, I guess
25 the official term would be poo-pooing his medical

1 conditions, but they are saying that based upon the
2 inconsistent information provided, there is some reason to
3 be skeptical of his medical conditions.

4 Now, to make a long story short -- and I am sort
5 of going to the end -- I am not going to grant him
6 conditions. I am going to detain him.

7 Now, Mr. Hernandez, if in the meantime -- well,
8 you know, the truth is that he is going to be sent back.
9 Assuming the identity and removal hearing proceed as they
10 typically do, he will be sent up to New York. Now, if there
11 is information that is developed by you or your colleague
12 who represents him in New York that proves that he has, in
13 fact, [REDACTED] and that he suffers from
14 [REDACTED], and he is suffering through
15 [REDACTED], and all those things prove to be a reality,
16 then perhaps an argument can be made, though I am not
17 anticipating anything, that there are new conditions or the
18 conditions have changed and for whatever reason the Court
19 should reevaluate the detention order.

20 But right now, given the facts that we all know
21 today, and based on the information that your client himself
22 has provided, I too am skeptical of his self-reported
23 medical conditions. You know, the fact that he says -- and
24 again, it's another reason to be skeptical, the fact that he
25 appears in a wheelchair today, but a very short time ago was

1 not in a wheelchair gives the Court pause.

2 I know very few people who travel as frequently
3 and to as many different and exotic places as Mr. Rolle, and
4 I don't think that he would have succeeded in traveling to
5 all of those places if he were, in fact, in a wheelchair.
6 So given the extensive worldwide travel that Mr. Rolle has
7 engaged in -- of course, that in and of itself, there is
8 nothing illegal about it, but it certainly does send a
9 message that he presents a substantial risk of flight if he
10 were to be released. The mere fact that he has knowledge of
11 and experience in that much international travel makes it
12 more -- makes it easier for him to accomplish that travel
13 and to flee than someone who has zero experience in
14 international travel.

15 The fact that he has been searching online for how
16 to obtain birth certificates from other countries and the
17 like is demonstrative of his mens rea in, perhaps, not only
18 committing the crimes for which he is charged in the
19 complaint, but for which he could use to flee the United
20 States if he wanted to.

21 So all in all, like I said, I can hardly think of
22 a more perfect case to demonstrate how an individual is --
23 presents a substantial risk of flight, and he will be
24 detained on those grounds.

25 Now, we have already addressed the issue of bail.

1 What is left is the identity and removal, and we need to
2 schedule that. Now, considering the fact that he is not a
3 U.S. citizen, he is a ten-dayer, we have already scheduled
4 that for, I think it was November 12, 2020.

5 DEPUTY CLERK: At 3:00 p.m.

6 THE COURT: At 3:00 p.m.

7 All right. Mr. Hernandez, you are totally and
8 completely aware of the possibility that he can waive that.
9 There is the form. I will leave it up to you to discuss
10 that with him and see if that is something that you would be
11 interested in doing. But if not, we will continue these
12 proceedings for November 12th, 2020, at 3:00 in the
13 afternoon, all right.

14 MS. MONTANEZ: That's all. The United States
15 moves to withdraw, Your Honor.

16 THE COURT: Hold on a second. Mr. Rolle, there is
17 nothing further here. The Court already made its decision.
18 If you want to speak with your attorney, Mr. Hernandez, then
19 he will contact you, and you can discuss with him what the
20 next step is. All right, Mr. Hernandez?

21 MR. HERNANDEZ: Thank you.

22 THE COURT: Have a nice day, everybody.

23 (PROCEEDINGS ADJOURNED AT 4:46 P.M.)
24
25

1 UNITED STATES DISTRICT COURT)
2) ss.
3 OF PUERTO RICO)
4

5 **REPORTER'S CERTIFICATE**
6
7

8 I, LISA O'BRIEN, do hereby certify that the above
9 and foregoing, consisting of the preceding 34 pages,
10 constitutes a true and accurate transcript of my
11 stenographic notes and is a true and complete transcript of
12 the proceedings to the best of my ability.

13 Dated this 13th day of January, 2021.
14

15 S/Lisa O'Brien
16 Lisa O'Brien
17 USDC Court Reporter
18 708-284-0021
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